



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,295	11/17/2003	Albert E. Johnstone III	8041-PA01D	5220

27111 7590 08/26/2005

GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED: 08/26/2005 (

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,295

Applicant(s)

JOHNSTONE ET AL.

Examiner

Yvonne M. Horton

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-5 and 7-11 is/are allowed.
- 6) ☒ Claim(s) 1 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #3,910,309 to KAISER. KAISER discloses a swivel joint apparatus comprising an inner, fixed spindle (13), the spindle having a series of spaced, outwardly projecting annular flanges (11, 13A) defining a series of annular chambers (19, 20) between each adjacent pair of flanges, each flange having an outer peripheral edge and at least one ring seal (21, 22) mounted on the peripheral edge of each flange, the flanges having a predetermined outer diameter (figure 2), an outer casing (10) rotatably mounted on the spindle (13), the casing (10) having an inner diameter substantially equal to the outer diameter of the flanges (figure 2), the casing forming an outerwall of each of the annular chambers and being in rotatable sealing engagement with each of the ring seals (21,22) to seal the chambers (19, 20), the spindle (13) having a lower end wall with a plurality of ports for connection to fixed utility lines in the fixed base of the building for fluid supply to and from the building (column 3, lines 3-5), and a bore (25) extending from each pod through the spindle to a respective annular chamber (19, 20), where by each chamber is connected to at least one pod (16, 17) in the lower end wall (figure 2), and the outer casing (10) having a series of axially spaced ports (45,47,48) including at least one port communicating with each of said annular chambers (through the internal portion of "10").

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,910,309 to KAISER. The annular flanges (11,13A) of KAISER include two end flanges at opposite ends of the spindle (13) forming an outer end wall of respective opposite end chambers (figure 2), and a plurality of spaced intermediate flanges (38, 40) separating adjacent chambers along the length of the spindle, each intermediate flange having a pair of spaced ring seals (40) projecting outwardly from its peripheral edge. KAISER discloses the basic claimed joint except for there being at least three flanges forming at least four chambers, and except for the specific use intended for the chambers. Although KAISER only teaches two flanges and chambers, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the joint with additional flanges and chambers, since the mere duplication of essential working parts of an invention involves routine skill in the art. Additional chambers would increase the water supply through the joint. Also, the annular chambers of KAISER comprises a sewer chamber (within 13), the spindle having more than one bore communicating with the sewer chamber and the outer casing having a plurality of pods communicating with the sewer chamber (column 2, lines 62-63). KAISER is not explicit as to the chambers being intended for "gray water" or specifically to the base of the building; however, it too would have been obvious to

one having ordinary skill in the art at the time the invention was made to select a known chamber and number suitable for the use intended as an obvious matter of design choice.

Response to Arguments

Applicant's arguments filed 6/6/05 have been fully considered but they are not persuasive.

Regarding the applicant's argument that the remainder of the housing of KAISER is for electrical supply and not fluid supply, although this may be true, it remains that it is within the general skill of a worker in the art to provide the joint of KAISER with additional chamber for whatever the intended use may be.

Also, in response to applicant's argument that the device of KAISER is not totally intended for water supply, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art.

In reference to the applicant's argument that the spindle (13) does not have ports (45,47,48) having a bore therein, the bores 25 extend indirectly from the ports (45,47,48) and through the spindle. However, the ports (45,47,48) house standard service lines. Although they house service lines and not water supply lines, in order to

Art Unit: 3635

accommodate any line, the ports (45,47,48) must inherently have an opening or bore therethrough in order for the lines to fit therein.

Regarding the applicant's argument that the ports (45,47,48) are not ports but rather electrical bushings, a port is defined as an opening as in a cylinder or valve for the passage of fluid or a port is also defined as a housing or anchorage device. Surely, the ports (45,47,48) anchor and house electrical supply. It would have been obvious that the ports (45,47,48) are fully capable, too, of maintaining a water supply.

Allowable Subject Matter

Claims 2-5 and 7-11 are allowed.

Conclusion


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Yvonne M. Horton
Art Unit 3635
8/16/05